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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,250	06/09/2006	Fabio Bellifemine	09952.0041	1305
22852	7590	06/16/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER PIERRE LOUIS, ANDRE	
			ART UNIT 2123	PAPER NUMBER
			MAIL DATE 06/16/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/582,250

**Applicant(s)**

BELLIFEMINE ET AL.

**Examiner**

ANDRE PIERRE LOUIS

**Art Unit**

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date 6/09/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

1. Claims 22-42 have been presented for examination.

**Specification**

2. The drawings are objected to because contain hand written labels and/or square/rectangular empty boxes and the Examiner respectfully requests that Applicant removes the hand written labels and provides a clear description in each of the empty boxes to assisting the Examiner in better visualizing the claimed invention. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Claim Objections**

3. Claims 28 and 37 are objected to because of the following informalities: claim 28 line 2 contain a typographical error, more specifically the word "valuating" is misspelled an the Examiner assumes that the word is "evaluating". Claim 37 line 5, the word "apt" is misspelled and the Examiner assumes that the word is "adapted". Appropriate correction is required.

**Claim Rejections - 35 USC § 101**

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.1. Claim 42 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim, as presented, is merely directed to a program product *loadable* in a memory and comprising code portions *capable of*... which itself suggests that the product is merely a program with software code to be loaded in a memory and therefore is clearly directed to per se and non-statutory under 35 USC 101. See MPEP 2106

**Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.0 Claims 22-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Risan et al. (USPG\_PUB No. 2005/0060542).

5.1 In considering claims 22 and 32, Risan et al. teaches a method of providing user modeling in media delivery networks, wherein a set of applications is adapted to exchange usage data by means of at least one user modeling server, *comprising the step of*: associating with said user modeling server a function for regulating exchange of usage data between any of a first application and a second application in said set, wherein said function defines: whether said usage data are provided by said first application to said second application, and a degree of trust acknowledged by said second application to the provided usage data (*fig.7, para 53, 65-66, 160-63, 180*).

5.2 Regarding claims 23 and 33, Risan et al. teaches that wherein said usage data comprise: user data related to the registered users and their profiles (*fig.7, para 65-66, 89-91*); and feedback data concerning the users' behavior (*fig.7, para 65-66, 89-91*).

5.3 With regards to claims 24 and 34, Risan et al. teaches the step of providing in said user modeling server: a first database containing the user data (*fig.4 (450), para 89-92*); a second database comprising feedback data (*fig. 9151), para 89-92*); and a third database containing rules for the exchange of usage data, said rules defining said function (*para 59-62, 89-92*).

5.4 As per claims 25 and 35, Risan et al. teaches the step of generating a prediction about preferences of a user in a specific domain by taking the user data associated with said user from the first database and the feedback data associated with said user from the second database and weighing said user data and said feedback data according to the rules contained in the third database (*fig.2-4, para 59-62, 65-68, and 89-92*).

5.5 With regards to claims 26 and 36, Risan et al. teaches that wherein said user modeling server further comprises a fourth database comprising data describing each application in said set (*fig.10, 13, para 262-65*).

5.6 Regarding claims 27 and 38, Risan et al. teaches that wherein said function is in the form of a bi-directional relationship and wherein any of said first and second applications is configured for accepting, refusing or negotiating said relationship (*fig.7, 12, 16, and 18, para 89-92, 326, 331-36*).

5.7 As per claim 28, Risan et al. teaches the steps of: **valuating** said usage data (*fig.4, para 92-96*); and defining debit and credit values each said application in said set has in respect to usage data exchanged with other applications in said set (*para 65-67, 89-92, and 316*).

3.8 With regards to claims 29 and 39, Risan et al. teaches that wherein said applications are associated with respective providers and wherein the method comprises the step of causing at least one of said providers to produce a list of other providers to which usage data are to be provided on the basis of said function (*fig.7, para 162-66*).

5.9 Regarding claims 30 and 40, Risan et al. teaches that wherein said applications are associated with respective providers and wherein the method comprises the step of causing at least one of said providers to produce a list of providers from which information is to be acquired (*fig.7, para 162-66*).

5.10 As per claim 31, Risan et al. teaches that wherein said usage data further comprise environment data related to the users' current location (*para 65-67, 187-88*).

5.11 Regarding claim 37, Risan et al. teaches that wherein the user modeling component comprises: a set of user modeling modules, each user modeling module being

associated with an application of said set and comprising the user data and the feedback data, wherein each modeling module is *apt* to generate a prediction about preferences of said user (*fig.2-4, para 59-62, 65-68, and 89-92*); and a merge component configured to merge the predictions about preferences from applications of said set and to weigh said predictions according to the rules contained in the third database (*fig.2-4, para 59-62, 65-68, and 89-92*).

5.12 With regards to claim 41, Risan et al. teaches the media delivery network comprising a system according to claim 32 (*this claim inherits the same defect as claim 32*).

5.13 Regarding claim 42, Risan et al. teaches the computer program product loadable in the memory of at least one computer and comprising software code portions capable of performing the steps of the method of claim 22 (*this claim inherits the same defect as claim 42*).

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6.1 Guheen et al. (U.S. Patent No. 6,519,571) teaches a dynamic customer profile management.

7. Claims 1-21 are cancelled; claims 22-42 are rejection and this action is non-final. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDRE PIERRE LOUIS whose telephone number is (571)272-8636. The examiner can normally be reached on Mon-Fri, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul L. Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. L/  
Examiner, Art Unit 2123

June 11, 2009

/Paul L Rodriguez/  
Supervisory Patent Examiner,  
Art Unit 2123